

EXHIBIT 1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 18-CV-10936(JSR)

6 -----
7 IN RE: PLATINUM-BEECHWOOD LITIGATION
8 -----

9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

18 PLATINUM MANAGEMENT (NY) LLC, et al.,

19 Defendants.
20 -----

21 VOLUME II

22 TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
23 BERNARD FUCHS

24 TRANSCRIPT of the stenographic notes of
25 the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, December 10, 2019,
commencing at 10:07 a.m.

1 Bernard Fuchs

2 Q Is it possible that it was in 2016?

3 A Yes, it's possible.

4 Q Okay.

5 "When the announcement was made
6 that I can't get any of the money out in 2015
7 because I am a partner, there was some commitment
8 that I made to some religious organization."

9 Now, that's the Yeshiva Torah
10 Vodaath that you mentioned?

11 A Yes.

12 Q Returning to the -- to the
13 transcript:

14 "So I made to some religious
15 organization that I was going to give them a
16 certain amount of charity for that year. So they
17 were very gracious in making me sign a release
18 that I will never sue them, and then lent me
19 500,000, 250 each, so I could make these
20 commitments; and I paid back some of that money
21 to them."

22 First of all, are you sure about
23 those amounts?

24 A Pretty sure. Pretty sure.

25 Q Is it possible that it was 325,000

1 Bernard Fuchs

2 that the Huberfeld Family Foundation lent you?

3 A Possible. Yes. It could be I was
4 off with that amount.

5 Q Okay. And is it -- are you sure
6 that it was at that time that you were asked to
7 sign a release?

8 A I'm not sure exactly when I was
9 asked. I know I was asked to sign the release
10 which I signed, but I'm not sure it was exactly
11 that same time or was before or after.

12 Q Okay.

13 A That I'm not sure exactly.

14 Q Okay. Now, in terms of the --
15 let's look at the release right now.

16 MR. ISAACS: Previously marked as
17 Exhibit 150, Tab 6.

18 MR. CHASE: Okay. Previously
19 marked as Exhibit 150, Tab 6. I'm going to
20 hand the witness a copy, Counsel.

21 (Previously Marked Exhibit No. 150,
22 Tab 6, Document entitled "Execution
23 Version, Release Agreement, Platinum,
24 Bodner, Huberfeld, Fuchs, Landesman and the
25 Nordlicht Parties," dated 3/20/16, Bates

1 Bernard Fuchs

2 time now.

3 Q Okay.

4 A I really never looked at this.

5 Q But that is what is provided in
6 this agreement that you signed?

7 A Correct.

8 Q Okay. And do I understand your
9 testimony -- well, let -- let me ask you this:

10 Are you sure that the loan that was
11 provided by the Huberfeld Family Foundation to
12 the Fuchs Family Foundation was in some way
13 connected to this release agreement?

14 A No, no connection at all.

15 Q It had no connection at all?

16 A None.

17 Q Okay. So the release agreement was
18 a separate matter from the loan from the family
19 foundation to the Fuchs Foundation?

20 A Correct.

21 Q Okay. So let's -- let's talk about
22 that loan, get back to that loan.

23 You made payments on that loan for
24 a period of time, correct?

25 A Yes.

1 Bernard Fuchs

2 Q Was there a time at which
3 Mr. Huberfeld asked -- was asked by you to
4 re-jigger the amounts?

5 A Yes.

6 Q To lower the amounts because you --
7 you were paying, what, 25,000 at one point?

8 A Yes.

9 Q And it was reduced to 2,500?

10 A Yes.

11 MR. CHASE: I'm going to mark as
12 Exhibit -- what number?

13 THE REPORTER: 761.

14 MR. CHASE: 761, A document Bates
15 stamped HF -- HFF 000520.

16 (Exhibit No. 761, 3/31/16 Document,
17 Lender List, Bates No. HFF 000520 is marked
18 by the reporter for identification.)

19 MR. BROWNLEE: Just so we could put
20 on the record, we -- we have requested, on
21 behalf of the joint official liquidators,
22 all the backup information for this
23 document and we have yet to receive it.
24 We've made multiple requests for it. We
25 make another request for it. And so we put

1 Bernard Fuchs

2 that on the record. Thank you.

3 (Document, Backup for loan payments
4 from Fuchs Family Foundation to the
5 Huberfeld Family Foundation made between
6 May 2, 2016, and December 17, 2018,
7 requested.)

8 Q Okay. Now, I will represent to you
9 that this is a document that was prepared by the
10 Huberfeld Family Foundation in connection with
11 your loan. You'll see that it reflects payments
12 beginning on May 2nd, 2016, and continuing all
13 the way through December 17, 2018, a total of
14 127,500 in payments.

15 To the best of your knowledge, does
16 that accurately reflect the payments that the
17 Fuchs Family Foundation made to the Huberfeld
18 Family Foundation in connection with that loan?

19 A It looks -- it looks okay. It
20 looks like it could be the amount.

21 Q And is it your recollection that
22 the last payment you made was in December of
23 2018?

24 A I don't remember exactly, but it
25 could be that's right.

1 Bernard Fuchs

2 Q Did you stop paying after you were
3 sued in this case?

4 A Yes.

5 Q Was that why you stopped paying?

6 A Yes.

7 Q And is -- do you have any reason to
8 dispute that the amount that was loaned by the
9 Huberfeld Family Foundation to the Fuchs Family
10 Foundation was 325,000?

11 A No. That's correct.

12 Q And that the date was March 31,
13 2016, that it was loaned?

14 A It looks like it's correct.

15 Q Okay.

16 MR. NOVAK: Are you on a different
17 topic at this moment?

18 MR. CHASE: What?

19 MR. NOVAK: Are you staying on
20 this -- on this issue, right? I'll let you
21 finish, and then I want to talk to my
22 client.

23 MR. CHASE: Okay. I just -- let me
24 just check and see. All right.

25 Q Now, it was understood by you and

1 Bernard Fuchs

2 the Huberfeld Family Foundation that this money,
3 the 325,000, was loaned for the purpose of giving
4 it to Yeshiva Torah Vodaath?

5 MR. BROWNLEE: Objection.

6 Mischaracterizes the evidence.

7 MR. NOVAK: Objection, also.

8 Q Is that accurate?

9 MR. NOVAK: When we object, you --
10 if you can answer the question, try to
11 answer it, not speculating, though.
12 Counsel doesn't want you to speculate. But
13 if you can answer it -- our objection is
14 for other purposes if it goes to trial.

15 A Primarily, the money was going to
16 go to this Yeshiva. There were some other
17 schools that were also getting, so not the
18 entire --

19 Q Okay.

20 A -- 325,000 was going just to one
21 school.

22 I would say maybe 150 to 200
23 thousand was going to that one school, and the
24 rest was going to other charities that I had
25 commitments to on a monthly basis, especially

1 Bernard Fuchs

2 before the holidays.

3 Q But it's clear that the loan that
4 was made was for your charitable foundation, the
5 Fuchs Family Foundation, and for charitable
6 purposes, correct?

7 A Correct.

8 Q Okay. It wasn't a personal loan?

9 A No.

10 MR. NOVAK: Maybe this is a point
11 to take a break.

12 MR. CHASE: Yes.

13 MR. NOVAK: Just so I can talk to
14 my client outside.

15 MR. CHASE: Okay.

16 THE VIDEOGRAPHER: The time is
17 10:28 a.m., and we're going off the record.

18 (There was a discussion off the
19 record.)

20 THE VIDEOGRAPHER: The time is
21 10:30 a.m., and we are back on record.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. CHASE:

24 Q Okay. I want to refer you to other
25 testimony that you made.

1 Bernard Fuchs

2 Q -- the release.

3 But what moneys were related to the
4 release?

5 A None.

6 Q So when you sign -- so -- so tell
7 me, then, about how you signed the release.

8 A When I looked at the release, now I
9 see all the people that signed on it.

10 Q Um-hum.

11 A So it couldn't have been for the
12 loan because why would Uri Landesman have to sign
13 the release, why would -- obviously, it was
14 nothing to do with that loan.

15 Q Right.

16 A I was confused a little bit that
17 day.

18 Q So tell me about -- tell me about
19 when -- did you sign the release in the -- with a
20 lawyer present? Was a lawyer even there?

21 A I don't remember.

22 Q Was Mr. Huberfeld there?

23 A I don't remember.

24 Q Was Mr. Nordlicht there?

25 A I don't remember.

1 Bernard Fuchs

2 A Yes.

3 Q You just signed the release?

4 A Yes.

5 Q So this whole story that you told
6 under oath on October 2nd about signing the
7 release in exchange for getting the money, that
8 was untruthful?

9 A It was a mistake. Yeah. I made a
10 mistake, yes.

11 Q Well, it's not mistake.

12 A It wasn't a lie intentionally.
13 It's just I thought that that was connected to
14 that. But now I see that it wasn't.

15 Q I see. So let me keep going on.

16 A Sure.

17 Q Because I -- I want to keep reading
18 here.

19 A Okay.

20 Q So then we said -- we started
21 there. Right. So I stopped where I said:

22 "Money from Platinum, my money."

23 You actually said that on your own.

24 Are you now testifying that the money you got,
25 that these loans were not your dollars, that they